



Criminal Liability of Children as Narcotics Sellers A Study of Decision Number 68/Pid.Sus-Anak/2025/PN Medan

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Article Info

Article History:

Received May 31, 2026

Revised June 8, 2026

Accepted: July 19, 2026

Keywords:

Criminal Liability, Child, Narcotics, Juvenile Justice System, Judicial Consideration.

Abstract

This study discusses criminal liability of children involved as narcotics sellers, based on the analysis of a decision from the Medan District Court. The issues examined include how criminal responsibility is applied to children in narcotics offenses, how the juvenile justice system is implemented, and how judges consider cases involving children as narcotics sellers. This study aims to determine criminal liability, the implementation of the judicial system, and judges' considerations regarding children as narcotics dealers. The research method used is normative juridical, employing a statutory approach and a case approach. The legal materials consist of primary, secondary, and tertiary sources obtained through library research. The data analysis is conducted qualitatively by interpreting relevant legislation and court decisions as the object of study. The results show that criminal responsibility for children as narcotics sellers cannot be equated with adults, as it must consider the child's capacity for responsibility, the element of fault, and possible grounds for justification or excuse. The implementation of the juvenile justice system in narcotics cases provides special procedures through investigation, prosecution, and trial stages, emphasizing diversion and restorative justice, although in practice it still faces various obstacles. Meanwhile, judicial considerations in the Medan District Court decision are not solely based on juridical aspects but also include sociological and philosophical considerations, although in some cases inconsistencies in the application of child protection principles are still found.

Introduction

The abuse and circulation of narcotics in Indonesia have shown an increasingly worrying trend in recent years. Narcotics no longer circulate only among certain groups but have spread to nearly all layers of society, regardless of age, social status, or level of education. The development of technology and increasingly open access to communication have further facilitated illicit narcotics trafficking networks in reaching wider areas, including regions that were previously relatively safe. This condition indicates that the narcotics problem is not merely an ordinary criminal issue but has become a complex social problem that requires serious attention from various parties National Narcotics Agency (BNN), Prakoso (2016).

In facing the increasingly complex issue of narcotics, Indonesia already has a clear legal foundation. One of the main regulations is Law Number 35 of 2009 concerning Narcotics, which regulates various aspects ranging from the classification of narcotics, the prohibition of illicit trafficking, to criminal sanctions for offenders (Law Number 35 of 2009 concerning Narcotics). This law was basically designed to provide a deterrent effect through a firm

approach, particularly against parties involved in narcotics trafficking networks (Prakoso, 2016; Marpaung, 2018). Nevertheless, in practice, the application of this regulation is not always simple, especially when the offender is a child who is legally entitled to special treatment. On the other hand, there is Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA), which specifically regulates how children in conflict with the law must be treated (Law Number 11 of 2012 concerning the Juvenile Criminal Justice System). This law emphasizes that children are not merely objects of punishment, but individuals who are still in a developmental stage and therefore need protection and guidance (Simanjuntak, 2021; Pakpahan, 2020). Concepts such as diversion and restorative justice are distinctive features of this system, which aim to keep children away from the formal justice process as far as possible and to prioritize recovery over retribution (Pakpahan, M. E., 2021, 2022; Mulyadi, 2019).

A problem then arises when these two regulations are confronted with the same case, namely when a child is involved in a narcotics offense, particularly as a seller. On the one hand, such conduct falls into a serious category regulated with strict sanctions under the narcotics law (Law Number 35 of 2009 concerning Narcotics). On the other hand, the child's status as the offender requires a more humane approach in accordance with the principles of the SPPA (Law Number 11 of 2012 concerning the Juvenile Criminal Justice System; Simanjuntak, 2022). This condition often creates a dilemma in law enforcement practice, because officials must balance the interests of law enforcement with the obligation to provide protection for children (Leonard, 2019; Pakpahan, 2021).

In addition, the application of diversion, which is one of the main features of the juvenile criminal justice system, has also not run consistently, particularly in narcotics cases. Not all cases involving children are resolved through diversion, even though normatively this is mandated if certain requirements are met (Law Number 11 of 2012 concerning the Juvenile Criminal Justice System). Many cases are still brought directly to the judicial process without any attempt at out-of-court resolution. This may be influenced by various factors, such as the perception that narcotics offenses are serious crimes, or a lack of understanding among officials regarding the principles of restorative justice (Pakpahan, M. E., 2022; Rizki, 2021; Rizki, 2022).

Furthermore, differences in judges' considerations in deciding children's cases are also a prominent issue. In relatively similar cases, differing decisions are not infrequently found, both in terms of the type and severity of the sanctions imposed. Some judges place greater emphasis on the aspects of guidance and child protection, while others focus more on the aspect of deterrence. This difference shows that there is not yet uniformity in how the position of children in narcotics offenses is viewed, which has the potential to create legal uncertainty as well as affect the sense of justice (Siahaan, 2020, 2021).

In handling cases of children involved in narcotics offenses, there is an apparent imbalance between a repressive approach and an approach that emphasizes child protection. Criminal law enforcement is basically aimed at providing a deterrent effect through firm sanctions (Waluyo, 2017; Moeljatno, 2015). However, when the legal subject is a child, that approach should not be applied rigidly. Children are still in a stage of development, both mentally and socially, so their handling needs to consider the aspects of guidance and their future (Simanjuntak, 2021; Batubara, 2022; Arifulloh, 2022). In practice, these two approaches often do not run in parallel, thereby creating a dilemma for law enforcement officials in determining the most appropriate course of action (Leonard, 2018; Arifulloh, 2021). This study aims to determine criminal liability, the implementation of the judicial system, and judges' considerations regarding children as narcotics sellers.

Method

Research Type

The type of research used in this paper is normative juridical research. This type of research focuses on examining legal principles, legal norms, statutory regulations, and judicial decisions related to the issues under study. The objective of normative juridical research is to analyze legal rules governing criminal liability toward children involved in narcotics offenses and to assess how those rules are implemented in judicial practice.

Research Approach

In conducting the analysis, this study uses two approaches. First, the statutory approach, namely by examining various regulations related to the research topic, such as provisions concerning narcotics and the juvenile criminal justice system. This approach is important for seeing how legal norms regulate criminal liability toward children. Second, the case approach, which is carried out by examining court decisions, specifically the decision of the Medan District Court. Through this approach, the author can understand how the law is applied in practice and how judges provide considerations in deciding cases.

Data Collection

Legal materials were collected through library research, namely by tracing and examining various written sources related to the problem under study. The legal materials consisted of primary legal materials, including statutory regulations and court decisions, secondary legal materials in the form of books and scientific journal articles, and tertiary legal materials that support the interpretation of legal concepts relevant to the research topic.

Data Analysis

Subsequently, the legal materials collected were analyzed qualitatively, by describing and connecting various concepts and legal provisions, so that conclusions could be drawn in accordance with the research objectives.

Result and Discussion

Criminal Liability of Children as Narcotics Sellers under Indonesian Criminal Law

Criminal liability toward children as narcotics sellers is a legal issue that cannot be viewed simply. Children in conflict with the law occupy a position different from that of adult offenders because, psychologically and emotionally, children are still in a stage of growth and development. Therefore, in determining criminal liability toward children, law enforcement officials must not merely look at whether the formal elements of the offense have been fulfilled but must also pay attention to the subjective condition of the child as the offender. In criminal law, a person can only be held liable if there is an unlawful act and an element of fault within the offender (Moeljatno, 2015; Saleh, 1983). However, with respect to children, that element of fault must be assessed more carefully because a child's capacity for reasoning, level of maturity, and understanding of the consequences of their actions are not yet as fully developed as those of an adult. This is in line with the opinion of Dr. Immanuel Simanjuntak, who asserts that the application of criminal law to children must continue to observe the principle of child protection within the criminal justice system, so that the punitive approach cannot be applied in the same way as it is to adult offenders (Simanjuntak, 2022; Simanjuntak, 2021; Law Number 11 of 2012 concerning the Juvenile Criminal Justice System).

This can be seen in Decision Number 68/Pid.Sus-Anak/2025/PN Mdn on behalf of the Child Ramses Sitorus alias Ses. In that case, the child was declared legally and convincingly proven guilty of committing an offense of possessing, storing, controlling, or providing Class I non-plant narcotics without authorization or unlawfully, as regulated under Article 112 paragraph (1) of Law Number 35 of 2009 concerning Narcotics in conjunction with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (Law Number 35 of 2009 concerning Narcotics; Law Number 11 of 2012 concerning the Juvenile Criminal Justice System). Based on the facts established at trial, the evidence found consisted of two clip plastic bags containing crystal methamphetamine with a net weight of 1.14 grams, one empty clip plastic bag, one black wallet, and cash amounting to Rp140,000.00. From these facts, the element of an unlawful act was indeed fulfilled, as the child was proven to have controlled Class I narcotics without authorization (Medan District Court, 2025).

Nevertheless, criminal liability toward the child in this case cannot be assessed solely from the fulfillment of the criminal elements. The judge must also consider the child's overall condition, including social background, peer environment, and the possible influence of other parties. In the practice of narcotics trafficking, children are often in a vulnerable position to be exploited by adults because they are considered easier to direct and less likely to arouse suspicion (Batubara, 2021). Many children become involved in narcotics offenses due to economic pressure, lack of family attention, or the influence of a poor environment. According to Dr. Sonya Airini Batubara, social and environmental factors have a major influence on children's involvement in offenses, so that their handling must take the child's overall social condition into account (Batubara, 2021, 2022). This condition shows that children's involvement in narcotics offenses is often not born of entirely free will.

In this case, the Public Prosecutor demanded that the child be sentenced to three years' imprisonment along with a fine of Rp100,000,000.00, subsidiary to three months of job training at the Tanjung Morawa Social Affairs Office. This demand shows that although the child is processed criminally, the justice system still attempts to adjust the form of punishment in accordance with the provisions of the Juvenile Criminal Justice System Law (Law Number 11 of 2012 concerning the Juvenile Criminal Justice System). This is important because the primary aim of sentencing a child is not merely to punish, but to provide guidance so that the child can reform and return to the social environment in a better condition. Dr. Achmad Arifulloh explains that the sentencing of children must be positioned as an *ultimum remedium*, so that imprisonment should be the last option after a guidance-based approach cannot be applied (Arifulloh, 2022; Arifulloh, 2021).

Implementation of the Juvenile Criminal Justice System in Handling Child Narcotics Offenders

The application of the Juvenile Criminal Justice System in this case shows that the legal process against the child was carried out through the special mechanism regulated under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (Law Number 11 of 2012 concerning the Juvenile Criminal Justice System). From the investigation stage through to trial, the child must receive legal protection and accompaniment so that their rights remain guaranteed throughout the judicial process (The 1945 Constitution of the Republic of Indonesia; Law Number 11 of 2012 concerning the Juvenile Criminal Justice System; Ministry of Law and Human Rights of the Republic of Indonesia). This is in line with the view of Dr. Kartina Pakpahan, who states that the principle of the best interests of the child must be the primary basis in every juvenile criminal justice process (Pakpahan, 2021). This is reflected in the existence of a community research report used as one of the considerations in the trial. Community research plays an important role because it provides a picture of the child's social

condition, family background, living environment, and the factors that led the child to become involved in the offense (Medan District Court, 2025).

In addition, the application of the principles of diversion and restorative justice in narcotics cases involving children is also an important part of the Juvenile Criminal Justice System (Law Number 11 of 2012 concerning the Juvenile Criminal Justice System). Diversion is basically aimed at keeping the child away from the negative impact of the criminal process and giving the child the opportunity to reform through a guidance-based approach (Pakpahan, M. E., 2022). Dr. Marlina Elisabeth Pakpahan explains that restorative justice in children's cases must prioritize the recovery of the child's condition over mere punishment (Pakpahan, M. E., 2021). However, in practice, the application of diversion in narcotics cases still faces various obstacles. Narcotics offenses are often viewed as serious crimes, so law enforcement officials tend to use a repressive approach rather than a child-protection approach (Prakoso, 2016; Rizki, 2022). According to Dr. Lilik Mulyadi, problems with diversion in children's cases often occur because the punitive paradigm remains strong in the practice of criminal justice in Indonesia (Mulyadi, 2019). As a result, children involved in narcotics offenses are still frequently processed through to trial and sentenced to imprisonment (Rizki, 2021; Rizki, 2022).

Judicial Considerations in Decision Number 68/Pid.Sus-Anak/2025/PN Mdn

In Decision Number 68/Pid.Sus-Anak/2025/PN Mdn, the judge's considerations were based not only on juridical aspects but also included sociological and philosophical aspects. From the juridical side, the judge found that the elements of the offense as regulated under Article 112 paragraph (1) of the Narcotics Law had been fulfilled based on the evidence and facts established at trial (Law Number 35 of 2009 concerning Narcotics; Medan District Court, 2025). The judge also considered the provisions of the Juvenile Criminal Justice System Law as the basis for imposing a sentence on the child (Law Number 11 of 2012 concerning the Juvenile Criminal Justice System). According to Dr. Rudy Haposan Siahaan, judges' considerations in criminal cases must be able to balance legal certainty with the community's sense of justice (Siahaan, 2020; Siahaan, 2021). From the sociological side, the judge considered the child's living conditions, social environment, and the possibility of future guidance for the child. Meanwhile, from the philosophical side, the judge considered that the law is not only aimed at imposing punishment but also at providing protection and an opportunity for the child to reform. This view is in line with the thinking of Prof. Dr. Tommy Leonard, who asserts that the purpose of law is not only related to legal certainty but must also pay attention to the values of justice and benefit to society (Leonard, 2018; Leonard, 2019).

In the author's view, the judge's considerations in this case still show the dominance of a repressive approach, given that imprisonment remained the primary option even though the Juvenile Criminal Justice System prioritizes guidance (Law Number 11 of 2012 concerning the Juvenile Criminal Justice System; Arifulloh, 2022). On the one hand, the judge continued to enforce the law against the narcotics offense committed by the child because such conduct was contrary to law and endangered society (Law Number 35 of 2009 concerning Narcotics). On the other hand, the judge was also required to consider the child's future as an individual who still had the opportunity to be guided and rehabilitated (Pakpahan, 2021; Simanjuntak, 2021). Dr. Muhammad Arif Prasetyo explains that sentencing policy in narcotics cases must consider the purposes of guidance and social reintegration, particularly with respect to child offenders (Prasetyo, 2021; Prasetyo, 2022). Such an approach is important so that the decision handed down is not merely repressive in nature but also reflects the values of justice and humanity as the primary objectives of the Juvenile Criminal Justice System (Leonard, 2019; Law Number 11 of 2012 concerning the Juvenile Criminal Justice System).

Conclusion

Criminal liability toward children as narcotics sellers cannot be equated with that of adults, because children are still in a stage of physical and psychological development. A child may still be held criminally liable if proven to have committed an unlawful act and to possess an element of fault, but the assessment must consider the child's capacity for responsibility, level of understanding of their actions, and the factors influencing the child's involvement in narcotics offenses. Children's involvement as narcotics sellers is often influenced by the social environment, economic pressure, lack of family supervision, and the influence of other parties who exploit the child's condition. The application of the Juvenile Criminal Justice System to children as narcotics sellers is carried out through the stages of investigation, prosecution, and trial, all of which must be oriented toward protection and the best interests of the child. In its implementation, the concepts of diversion and restorative justice are an important part of avoiding punishment as the primary course of action. However, the application of the SPPA in narcotics cases still faces obstacles in the form of a dominant repressive approach, the limited understanding of law enforcement officials regarding child protection principles, and the social stigma toward children involved in narcotics offenses. Judges' considerations in decisions concerning children as narcotics sellers are based not only on juridical aspects but also consider sociological and philosophical aspects. Judges assess the legal facts, family conditions, social environment, the child's level of involvement, and the possibility of guidance for the child's future. In practice, differences in approach still exist among judges' decisions, where some decisions are more oriented toward punishment, while others place greater emphasis on the protection and guidance of the child. Therefore, judges' considerations are expected to be able to balance legal certainty, justice, and protection for children in accordance with the objectives of the Juvenile Criminal Justice.

References

- The 1945 Constitution of the Republic of Indonesia.
- Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, State Gazette of the Republic of Indonesia of 2012 Number 153, Supplement to the State Gazette Number 5332 (Indonesia).
- Law Number 35 of 2009 concerning Narcotics, State Gazette of the Republic of Indonesia of 2009 Number 143, Supplement to the State Gazette Number 5062 (Indonesia).
- The Indonesian Criminal Code (KUHP).
- Hamzah, A. (2019). *Hukum acara pidana Indonesia*. Sinar Grafika.
- Leonard, T. (2018). *Teori hukum dan keadilan dalam perspektif perlindungan anak*. CV Mitra Medan.
- Leonard, T. (2019). *Filsafat hukum dan perlindungan hak anak*. Pustaka Prima.
- Marpaung, L. (2018). *Asas-teori-praktik hukum pidana*. Sinar Grafika.
- Moeljatno. (2015). *Asas-asas hukum pidana*. Rineka Cipta.
- Mulyadi, L. (2019). *Wajah sistem peradilan pidana anak Indonesia*. Alumni.
- Prakoso, D. (2016). *Tindak pidana narkotika di Indonesia*. Rineka Cipta.

- Saleh, R. (1983). *Perbuatan pidana dan pertanggungjawaban pidana*. Aksara Baru.
- Waluyo, B. (2017). *Pidana dan pemedanaan*. Sinar Grafika.
- Arifulloh, A. (2021). Sistem pemedanaan anak dalam kebijakan hukum pidana Indonesia. *Jurnal Legislasi Indonesia*, 8(2), 132–145.
- Arifulloh, A. (2022). Kebijakan pemedanaan terhadap anak dalam perspektif *ultimum remedium*. *Jurnal Ius Constituendum*, 7(2), 113–126.
- Batubara, S. A. (2021). Faktor sosial penyebab anak terlibat dalam tindak pidana narkoba. *Jurnal Reformasi Hukum*, 6(1), 67–79.
- Batubara, S. A. (2022). Perlindungan sosial terhadap anak sebagai pelaku tindak pidana. *Jurnal Hukum dan Masyarakat*, 6(3), 91–104.
- Pakpahan, K. (2020). Perlindungan hak anak dalam proses peradilan pidana di Indonesia. *Jurnal Lex Suprema*, 5(2), 88–100.
- Pakpahan, K. (2021). Prinsip kepentingan terbaik bagi anak dalam sistem peradilan pidana anak. *Jurnal Ius Civile*, 4(1), 59–71.
- Pakpahan, M. E. (2021). Restorative justice terhadap anak yang berhadapan dengan hukum dalam perspektif sistem peradilan pidana anak. *Jurnal Arena Hukum*, 10(3), 201–216.
- Pakpahan, M. E. (2022). Diversi sebagai bentuk perlindungan anak dalam perkara pidana narkoba. *Jurnal Hukum dan Peradilan Indonesia*, 11(1), 145–160.
- Prasetyo, M. A. (2021). Kebijakan hukum pidana terhadap pelaku tindak pidana narkoba. *Jurnal De Lega Lata*, 4(2), 76–90.
- Prasetyo, M. A. (2022). Tujuan pemedanaan dalam tindak pidana narkoba terhadap anak. *Jurnal Penegakan Hukum Indonesia*, 5(1), 84–97.
- Rizki. (2021). Penerapan sistem peradilan pidana anak pada perkara narkoba. *Jurnal Aktual Justice*, 2(2), 49–61.
- Rizki. (2022). Praktik peradilan anak dalam perkara narkoba di Indonesia. *Jurnal Rechtsvinding Sumatera*, 3(1), 54–67.
- Siahaan, R. H. (2020). Kepastian hukum dan keadilan dalam putusan hakim terhadap anak. *Jurnal Yuridis Prima*, 5(2), 73–86.
- Siahaan, R. H. (2021). Pertimbangan hakim dalam penjatuhan pidana terhadap anak sebagai pelaku tindak pidana narkoba. *Jurnal Hukum Responsif*, 7(1), 97–110.
- Simanjuntak, I. (2021). Perlindungan hukum terhadap anak yang berhadapan dengan hukum dalam sistem peradilan pidana anak. *Jurnal Mercatoria*, 9(2), 120–134.
- Simanjuntak, I. (2022). Penerapan hukum pidana terhadap anak dalam sistem peradilan pidana Indonesia. *Jurnal Hukum dan Keadilan*, 8(2), 45–58.
- Medan District Court. (2025). *Decision Number 68/Pid.Sus-Anak/2025/PN Mdn*.
- Ministry of Law and Human Rights of the Republic of Indonesia. (n.d.). *Sistem peradilan pidana anak di Indonesia*.
- National Narcotics Agency. (n.d.). *Data penyalahgunaan narkoba di Indonesia*.